

Rule 5.4.14
PRIVACY POLICY REGARDING PERSONAL DATA IDENTIFIERS
IN CIVIL CASES

In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002 (Pub. L. 107-347, which was enacted on December 17, 2002), and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court:

1.(a) Social Security Numbers. If an individual's Social Security number must be included in a pleading, only the last four digits of that number shall be used.

2.(b) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child shall be used.

3.(c) Dates of Birth. If an individual's date of birth must be included in a pleading, only the year shall be used.

4.(d) Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers shall be used.

~~The parties and counsel are solely responsible~~ The responsibility for redacting the se personal ~~data~~ identifiers rests solely with counsel and the parties. The clerk will not review each pleading for compliance with this general rule order.

In addition, parties may refrain from including, or may partially redact where inclusion is necessary, the following confidential information: personal identifying numbers, such as driver's license numbers; medical records, treatment, and diagnosis; employment history; individual financial information; ~~and~~ proprietary or trade secret information; information regarding an individual's cooperation with the government; information regarding the victim of any criminal activity; national security information; and sensitive security information as described in 49 U.S.C. § 114(s).

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers or other confidential information listed above may

(a) file an unredacted version of the document under seal. This document, which
shall be retained by the court as part of the record; or

(b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. The reference list shall be retained by the court as part of the record.

The court may, however, still require the party to file a redacted copy of the document for the public file.

Formerly D.Kan.S.O. 04-4.

Rule CR49.14
PRIVACY POLICY REGARDING PERSONAL DATA IDENTIFIERS
IN CRIMINAL CASES

In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002 (Pub. L. 107-347, which was enacted on December 17, 2002), and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court:

~~1.~~**(a) Social Security Numbers.** If an individual's Social Security number must be included in a pleading, only the last four digits of that number shall be used.

~~2.~~**(b) Names of Minor Children.** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.

~~3.~~**(c) Dates of Birth.** If an individual's date of birth must be included in a pleading, only the year shall be used.

~~4.~~**(d) Financial Account Numbers.** If financial account numbers are relevant, only the last four digits of these numbers shall be used.

(e) Home Addresses. If a home address must be included, only the city and state shall be used.

~~. The parties and counsel are solely responsible~~ The responsibility for redacting the ~~se~~ personal ~~data~~ identifiers rests solely with counsel and the parties. The clerk will not review each pleading for compliance with this general rule order.

In addition, parties may refrain from including, or may partially redact where inclusion is necessary, the following confidential information: personal identifying numbers, such as driver's license numbers; medical records, treatment, and diagnosis; employment history; individual financial information; ~~and~~ proprietary or trade secret information; information regarding an individual's cooperation with the government; information regarding the victim of any criminal activity; national security information; and sensitive security information as described in 49 U.S.C. § 114(s).

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers or other confidential information listed above may

(a) file an unredacted version of the document under seal. ~~This document, which~~ shall be retained by the court as part of the record; or

(b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. The reference list shall be retained by the court as part of the record.

The court may, however, still require the party to file a redacted copy of the document for the public file.

Formerly D.Kan.S.O. 04-4.

RULE 7.1
MOTIONS IN CIVIL CASES

(a) Form and Filing. All motions, unless made during a hearing or at trial, shall be in writing and shall be filed with the clerk. Except for motions pursuant to D. Kan. Rules 6.1(a) through (d) and 77.2, all motions shall be accompanied by a brief or memorandum unless otherwise provided in these rules. With the approval of the court, parties may be relieved from the requirement of serving and filing written briefs or memoranda in support of motions, responses and replies.

(b) Joint or Unopposed Motions. If a motion is joint or unopposed, a statement to this effect shall be contained in the caption and in the body of the motion. Also, a proposed order shall be submitted with the motion. If the motion is filed electronically, the proposed order shall be submitted directly to the appropriate judge, magistrate judge, or the clerk as set forth in D. Kan. Rule 5.4.4 and the administrative procedures guide.

(c) Responses and Replies to Motions. Within the time provided in D. Kan. Rule 6.1(ed), a party opposing a motion shall file and serve a written response to the motion containing a short, concise statement of its opposition to the motion, and if appropriate, a brief or memorandum in support thereof. The moving party may file and serve a written reply memorandum.

(d) Additional Copies of Documents. Copies of documents filed electronically shall not be provided to the court in conventional paper format unless otherwise required by court order, this court's rules, or the administrative procedures guide, or unless the court specifically requests that a party provide the court with paper copies. However, copies of documents that are filed in conventional paper format shall be filed with the clerk in duplicate, including an original and one copy.

(e) Page Limitations. The arguments and authorities section of briefs or memoranda submitted shall not exceed 30 pages absent an order of the court.

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As amended / /04, 9/00, 3/04.

Renumbered 6/95. Formerly Rule 206(a) and (b).

RULE 7.4

FAILURE TO FILE AND SERVE MOTION PAPERS

The failure to file a brief or response within the time specified within Rule 6.1(ed) shall constitute a waiver of the right thereafter to file such brief or response, except upon a showing of excusable neglect. A motion not accompanied by a required brief or memorandum may, in the discretion of the court, be summarily denied. A response unaccompanied by a required brief or memorandum may, in the discretion of the court, be disregarded and the pending motion may be considered and decided as an uncontested motion. If a respondent fails to file a response within the time required by Rule 6.1(ed), the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice.

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As amended / /04

Renumbered 6/95. Formerly Rule 206(g).

RULE 16.3
ALTERNATIVE DISPUTE RESOLUTION

(a) Authorization for and Purpose of Mediation. Pursuant to 28 U.S.C. § 652, litigants in civil cases may be required to consider the use of an alternative dispute resolution (“ADR”) process. The court’s primary ADR procedure is mediation facilitated by a private mediator chosen by the parties. The mediation process is intended to improve communication among the parties and provide the opportunity for greater litigant involvement in the earlier resolution of disputes, with the ultimate goal of securing the just, speedy and inexpensive disposition of civil cases.

(b) Summary Description of ADR Procedures.

(1) **Mediation.** Mediation utilizes a neutral third party to facilitate discussions among the parties to assist them in finding a mutually acceptable resolution of the case. The goal of the mediator, who may meet with the parties jointly and separately, is to help them identify their underlying interests, improve communication, and generate settlement options. A mediator may employ traditional facilitative strategies (aimed at solutions to problems underlying the litigation), evaluative strategies (designed to present the strengths and weaknesses of the case, or its relative value), or a combination of both approaches. In limited circumstances and at the judge’s discretion, the judge may conduct the mediation.

(2) **Other ADR Procedures.** In appropriate cases, the court will facilitate other forms of ADR, as authorized by 28 U.S.C. §§ 654-658, including, but not limited to, early neutral evaluation, mini-trial, and arbitration.

(c) Referral of Cases to Mediation. Consistent with Fed. R. Civ. P. 16, the judge or magistrate judge to whom a case has been assigned or referred for case management will discuss ADR procedures at the scheduling conference. In most cases the judge will likely enter an order directing counsel and the parties, at the earliest appropriate opportunity, to attempt to resolve or settle/mediate their dispute using such extra-judicial proceedings as mediation, mini-trials, summary jury trials or other alternative dispute resolution programs. Any such order may set forth the terms of the extra-judicial proceedings. Pursuant to 28 U.S.C. § 652, as amended October 30, 1998, litigants in all civil cases are required to consider the use of an alternative dispute resolution process, including, but not limited to, mediation, settlement conferences, early neutral evaluation, mini trial, and arbitration as authorized in 28 U.S.C. §§ 654 through 658, at an appropriate stage in the litigation. Specific cases in which use of alternative dispute resolution would not be appropriate may be exempt from this requirement. Settlement conferences shall be conducted in such a way as to permit an informative discussion between counsel and the parties; and the judge, magistrate judge, or mediator of every possible aspect of the case bearing on its settlement, thus permitting the judge, magistrate judge, or mediator to privately express his or her views concerning the settlement of the case with a private mediator.

(1) **Referral and Selection Process.** Referral of a case to mediation may be ordered at any appropriate time. If mediation is ordered, the parties will jointly select the mediator. The parties may select any person to serve as mediator, and the person need not be included on the list of mediators maintained by the court. Absent substantial countervailing considerations, the assigned judge will appoint the mediator whom the parties have jointly selected. If the parties cannot agree on the selection of a mediator, the parties will submit their

nominations to the judge who will select the mediator.

(2) Attendance at Mediation Session by Persons with Settlement Authority.

Attendance by a party or its representative with settlement authority at such conferences the mediation is mandatory, unless the court orders otherwise. ~~In cases where the United States is a party, attendance at the conference by the United States Attorney for the District of Kansas will satisfy this rule. Settlement conference statements or memoranda submitted to the court or any other~~ The purpose of this requirement is to have the party or representative who can settle the case during the course of the mediation present at the mediation. A unit or agency of government satisfies this attendance requirement if represented by a person who has, to the greatest extent feasible, authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements. The parties' counsel responsible for resolution of the case shall also be present.

(3) Notice to Interested Nonparties. Counsel shall coordinate with the mediator and identify any nonparties who have an interest in the case (including, but not limited to, primary and excess liability insurance carriers, subrogees, and lienholders). Counsel shall provide written notice to all interested nonparties informing them of the date and location of the mediation and that their participation is strongly encouraged. A copy of such notice shall be provided to all parties and the mediator.

(4) Requests to be Excused. Unless all parties agree, only the judge may excuse the presence of a person with settlement authority from attending the mediation in person.

(5) Sanctions. In appropriate circumstances, the court may impose sanctions pursuant to Fed.#R.#Civ.#P. 16(f).

(d) List of Mediators. The ADR administrator will maintain a List of Mediators who have expressed a desire to mediate cases pending in this court who have complied with the requirements of this paragraph.

(1) Minimum Qualifications and Training. For placement on the list of mediators, the person must be a lawyer and:

- (i) must have been a member of a state or federal bar in good standing for the preceding five years and satisfy one of the following additional requirements: (a) participation in 40 hours of approved mediation training within the past two years; (b) approved as a mediator for civil cases pursuant to the rules adopted by the Kansas Supreme Court; or (c) participated as mediator, co-mediator or counsel in ten mediations in court cases in the past three years;
- (ii) must abide by the disclosure rule set forth in paragraph (g) below;
- (iii) must agree to participate periodically in court-approved ADR orientation or refresher training;
- (iv) must agree (A) to permit participants in the mediation sessions they conduct to give feedback to the court about how the process was conducted and (B) to submit reports upon conclusion of the mediation; and

(v) must agree to serve as a mediator on a pro bono basis or, in the court's discretion, at a reduced fee in two cases per year.

(2) Placement on the List of Mediators. All applicants must complete the required application form. The applications will be reviewed by the ADR administrator and applicants meeting the minimum requirements will be placed on a list of mediators. Being on the list of mediators is not an indication that a person is an effective mediator and no certification results by placement on the list. The list serves as a resource of persons who offer mediation services and appear to meet the court's minimum requirements.

(3) Evaluation. The ADR administrator is authorized to develop an evaluation program for the purpose of evaluating the mediation services of private mediators. Any comments or complaints concerning mediators on the list should be made to the ADR administrator.

(4) Removal from the List of Mediators. The ADR administrator may remove any person from the list of mediators for any reason consistent with the effective management of the program.

(e) Compensation of Private Mediators. Except when serving pro bono, private mediators shall be compensated at the rate negotiated by counsel and the mediator. The fee shall be divided by agreement of the parties or as ordered by the court.

(f) Mediation with Indigent Parties. If a party is indigent, the mediation services shall be provided pro bono or at a reduced rate to that party. The judge will determine whether a party is indigent.

(g) Required Disclosures by Mediator. The mediator shall immediately disclose to the parties the relevant facts giving rise to any potential conflict of interest, including the following:

(1) any basis upon which the mediator's impartiality might reasonably be questioned;

(2) any bias or prejudice concerning a party to this case;

(3) personal knowledge of evidentiary facts that are disputed in this case;

(4) the mediator is serving as a lawyer in the case;

(5) the mediator's spouse is serving as a lawyer in the case;

(6) any lawyer in the mediator's firm has served or is serving as a lawyer in the case;

(7) the mediator or the mediator's spouse is a party to the case or an officer, director, or trustee of a party to the case;

(8) the mediator or the mediator's spouse has been or is likely to be a material witness in the case;

(9) a lawyer with whom the mediator currently practices has been or is likely to be a material witness in the case;

(10) the mediator (directly or as a fiduciary), the mediator's spouse, or any of the mediator's minor children who live with the mediator have a financial interest in the case or in any party to the case;

(h) **Withdrawal.** If a party requests the mediator to withdraw because of the disclosures made pursuant to paragraph (g) above, the mediator shall withdraw, and the parties shall agree upon another mediator.

(i) **Confidentiality.** Except as provided in paragraph (j) below, this court, the mediator, all counsel, the parties, and any other persons involved in the mediation shall treat as "confidential information" the contents of written mediation statements, anything that happened or was said, any position taken, and any view of the merits of the case formed by any participant in connection with any mediation. "Confidential information" shall not be:

(1) disclosed to anyone not involved in the mediation process;
(2) disclosed to the trial judge; or
(3) discoverable or subject to compulsory process or used for any purpose, except as provided in paragraph (j) below, in any pending or future proceeding in any court unless a court determines that such testimony or disclosure is necessary to:

- (i) prevent a manifest injustice,
- (ii) help establish a violation of law or ethical violation, or
- (iii) prevent harm to the public health or safety, of such magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications which take place during the settlement conference shall not be used by any party in the trial of the case. The judge, magistrate judge, or mediator presiding over the settlement conference shall not communicate to the judge or magistrate judge trying the case the confidences of the conference except to advise as to whether or not the case has been settled. If the conference is conducted by a mediator, the costs of the conference, including the reasonable fees of the mediator, shall be assessed to the parties in such proportions as shall be determined by the judge or magistrate judge. will remain confidential.

(j) **Limited Exceptions to Confidentiality.** Paragraph (i) above does not prohibit:

(1) disclosures as may be stipulated by all parties and the mediator;
(2) disclosure of an agreement by all parties to the agreement which appears to constitute a settlement contract if necessary in proceedings to determine the existence of a binding settlement contract;

(3) a report to or an inquiry by the ADR administrator regarding a possible violation of these local rules;

(4) a report of a possible violation of a court order to the judge signing the

order;

(5) any participant or the mediator from responding to an appropriate request for information duly made by persons authorized by the court to monitor or evaluate the court's ADR program; or

(6) disclosures as are otherwise required by law.

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As amended ___/___/04 (formerly D.Kan.S.O. 04-1 and 03-6), 4/8/99, 2/28/97, 2/3/95.

Renumbered 6/95. Formerly Rule 214.

Further renumbered 2/97.

RULE 79.1
ACCESS TO COURT RECORDS

(a) Access. The public records of the court are available for examination in the office of the clerk during normal business hours. Access to electronically filed documents is available as set forth in D. Kan. Rule 5.4.12.

(b) Copies. The clerk will make and furnish copies of official public court records upon request and upon payment of prescribed fees.

(c) Sealed or Impounded Records. Records or exhibits ordered sealed or impounded by the court are not classed as public records within the meaning of this rule.

(d) Search for Cases by the Clerk. The office of the clerk of this court is authorized to make a search of the most recent ten years of the master index maintained in the office, and to issue a certificate of such search. The clerk shall charge a fee of \$26.00 for each name for which a search is conducted, payable in advance.

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As amended / /04. 6/01, 6/13/88, 3/04.
Renumbered 6/95. Formerly Rule 108.

RULE 83.2.1

PHOTOGRAPHS, RECORDINGS, AND BROADCASTS

Except for devices used in connection with official court records, radio or television broadcasting and the use of photographic, electronic, or mechanical reproduction or recording equipment is prohibited in ~~courtrooms or their environs. “Environs” is defined to mean the courtrooms, the offices of the judges, magistrate judges, clerk, probation officers, or any corridor connecting or adjacent thereto, including all parking areas and entrances to and exits from the United States Courthouse, or so close to any such facilities as to disturb the order or decorum of the court~~courthouse. Ceremonial proceedings such as the administration of oaths of office to appointed officials of the court, naturalization, and presentation of portraits or awards may be photographed in or broadcast from the courtroom, only with permission and under the supervision of the court. This rule does not apply to employees who work in the courthouse or to use of courtrooms by other government agencies.

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As amended / /04 (formerly Amended D.Kan.S.O. 04-2 and D.Kan.S.O. 04-2), 9/28/87.
Renumbered 6/95. Formerly Rule 116.

RULE 83.2.4
ELECTRONIC COMMUNICATION DEVICES

~~Unless exempted by a district, magistrate, or bankruptcy judge, every person upon entering the courthouse, shall deposit with court security officers or a member of the U.S. Marshals Service any computer, cell phone~~ (a) For purposes of this rule, an electronic communication device includes any computer, personal digital assistant, cellular telephone, digital camera or camcorder, pager, two-way radio, or other electronic communication device ~~in his or her possession. This rule shall not apply to.~~

(b) Federal law enforcement officers, employees and tenants of the courthouse may bring electronic communication devices into the courthouse.

(c) Possession of electronic communication devices is otherwise prohibited, except by

(1) lawyers who present photo identification and a current bar registration card from this court;

(2) pro hac vice counsel who present photo identification and a court order which establishes that they are admitted to practice for a particular case, when counsel is at the courthouse on business related to that case;

(3) staff in the company of such lawyers and

(4) individuals who are granted specific written permission from this court.

All such individuals and electronic communication devices are subject to proper screening and security clearance before entry into the courthouse. Furthermore, lawyers are responsible for ensuring that their staff comply with all rules regarding use of electronic communication devices.

(d) No person who is allowed to possess an electronic communication device in the courthouse may allow it to be used by any unauthorized person or for any unauthorized purpose.

(e) Use of devices in the courtroom: Laptop computers may be used in the courtroom. No other electronic communication device may be used in the courtroom except by federal law enforcement officers ~~or employees or tenants of the courthouse.~~ and court personnel.

(f) No electronic communication device shall be used in violation of Rule 83.2.1.

(g) Any electronic communication device that is used in violation of this rule or Rule 83.2.1 is subject to immediate, permanent confiscation. In addition, in the discretion of the court, the violator or other responsible party may be subject to other sanctions (including financial sanctions).

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As amended / /04 (formerly D.Kan.S.O. 04-3)

New rule, adopted 7/9/99.